

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

<b>WEST VIRGINIA UNIVERSITY</b>	)	
<b>BOARD OF GOVERNORS</b>	)	
<b>on behalf of</b>	)	
<b>WEST VIRGINIA UNIVERSITY</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:12-cv-5-FPS
	)	
<b>MIVAMAN, LLC, et al.</b>	)	
	)	
Defendants.	)	
	)	

**JOINT MOTION FOR ORDER OF DISMISSAL AND PERMANENT INJUNCTION**

Plaintiff West Virginia University Board of Governors on behalf of West Virginia University and defendants Mivaman, LLC, JFord, Inc., and Kevin W. Ford respectfully and jointly move the Court, pursuant to Fed.R.Civ.P. 41(a)(2), for the issuance of the Order of Dismissal and Permanent Injunction in the form accompanying this motion. In support of this motion, the following is shown:

1. The parties have entered into a Settlement Agreement ("Agreement") which sets forth the terms of the settlement they reached to resolve all claims associated with this matter.
2. The Agreement provides for the dismissal of the entire action and the entry of a permanent injunction against Defendants. The Agreement also provides that the Court retain jurisdiction to enforce the terms of the Agreement and the prior Orders of this case, if any.
3. The parties expressly request that the Court retain jurisdiction over this case, for the purpose of enforcing the parties' Agreement and the permanent injunction. *See e.g.* *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 381-82 (1994); *Marino v. Pioneer*

*Edsel Sales, Inc.*, 349 F.3d 746, 752 (4<sup>th</sup> Cir. 2003); *Smyth v. Rivero*, 282 F.3d 268, 283 (4<sup>th</sup> Cir. 2002) (“The obligation to comply with a settlement’s terms must be expressly made part of a court’s order for jurisdiction to enforce the settlement after dismissal of the action to exist. Either incorporation of the terms of the agreement or a separate provision retaining jurisdiction over the agreement will suffice for this purpose.”).

4. The parties jointly request that the Court grant this motion and enter the attached, fully endorsed order, at its earliest convenience.

WHEREFORE, the premises considered, the parties respectfully request that their motion be granted and the attached endorsed order be entered, dismissing this case.

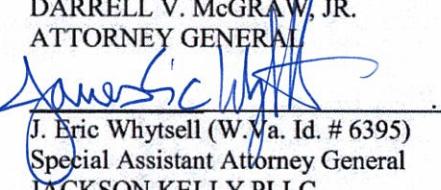
Dated: April 5, 2012

Respectfully submitted,

**WEST VIRGINIA UNIVERSITY  
BOARD OF GOVERNORS,  
on behalf of West Virginia University**

By Counsel,

DARRELL V. McGRAW, JR.  
ATTORNEY GENERAL

  
J. Eric Whytsell (W.Va. Id. # 6395)  
Special Assistant Attorney General  
JACKSON KELLY PLLC  
1875 Connecticut Avenue, NW  
Suite 1110  
Washington, DC 20009  
202-973-0200 tel.  
202-973-0232 fax  
[ewhytsell@jacksonkelly.com](mailto:ewhytsell@jacksonkelly.com)

**MIVAMAN, LLC, JFORD, INC.  
and KEVIN W. FORD**

By Counsel,

  
J. Michael Benninger (W.Va. Id. # 312)  
BENNINGER LAW, PLLC  
154 Pleasant Street  
Morgantown, WV 26505  
304-241-1856 tel.  
304-241-1857 fax.  
[mike@benningerlaw.com](mailto:mike@benningerlaw.com)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

WEST VIRGINIA UNIVERSITY )  
BOARD OF GOVERNORS )  
on behalf of )  
WEST VIRGINIA UNIVERSITY )  
                          )  
Plaintiff,              )  
                          )  
                          )  
v.                         )                          No. 1:12-cv-5-FPS  
                          )  
                          )  
**MIVAMAN, LLC, et al.** )  
                          )  
Defendants.             )  
                          )

---

**CERTIFICATE OF SERVICE**

I hereby certify that on April 5, 2012, I electronically filed the foregoing JOINT MOTION FOR ORDER OF DISMISSAL AND PERMANENT INJUNCTION with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

J. Michael Benninger  
BENNINGER LAW, PLLC  
154 Pleasant Street  
Morgantown, WV 26505  
[mike@benningerlaw.com](mailto:mike@benningerlaw.com)

/s/ J. Eric Whytsell  
Attorney for Plaintiff